

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Crl.Rev.Pet.No. 850 of 1998()

**CRA.82/1997 of IST ADDL. SESSIONS COURT, THRISSUR
ST.223/1989 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
CHALAKUDY.**
.....

REVN. PETITIONER: APPELLANT/ ACCUSED

**C.BALAKRISHNAN, S/O.PARAMESWARAN NAIR,
CHERIYIL HOUSE, CHALAKUDY,
MUKUNDAPURAM TALUK.**

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS: RESPONDENTS/ STATE & COMPLAINANT

- 1. STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM.**
- 2. THE FOOD INSPECTOR,
CHALAKUDY MUNICIPALITY**

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

CRL.RP/ NO. 850/1998

ORDER ON CRL.MP. NO.4295/1998 IN CRL.RP. NO.850/1998

DISMISSED

12.07.2007

SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

tss

K.R.UDAYABHANU, J

Crl.R.P.No.850 of 1998

Dated this the 12th day of July, 2007

O R D E R

The revision petitioner is the accused in S.T.No.223/89 in the file of the JFCM, Chalakudy with respect to the offences under Sections 2(ia) (1) 7(i) (v) read with Section 16(1) (a) (i) and (ii) of the P.F.A. Act, 1954 and A.14 of Appendix B of the Prevention of Food Adulteration Rules 1955. The prosecution case is that the tea dust purchased by the Food Inspector from the shop of the accused was found to be adulterated. On analysis, the same was found to contain excess ash. The revision petitioner/accused stands convicted to undergo simple imprisonment for three months and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for three months.

2. The evidence adduced in the matter consisted the testimony of PW1 and Exts. P1 to P15. The accused himself got examined as DW1 and has produced Ext.D1 bill.

3. The counsel for the revision petitioner has raised the contention that the accused is entitled to the protection of

Section 19(2) of the PFA Act by virtue of Ext. D1 bill produced by DW1. The above contention was rejected by both the courts below on the basis of as the evidence of PW1, Food Inspector, that the tea dust was kept in an unsealed jar; and rightly so. In the circumstances, I find no reasons to interfere in the findings of the court below. The conviction is confirmed.

4. All the same, counsel for the revision petitioner has pointed out that about 19 years have elapsed since the commencement of the criminal proceedings. In the circumstances and also taking into consideration the nature of the adulteration, I find that the sentence is liable to be modified. The sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.5,000/- and in default, to undergo simple imprisonment for six months. The revision petitioner shall appear before the Judicial First Class Magistrate Court, Chalakudy on 24.8.2007 to receive sentence.

The criminal revision petition is disposed of as above.

**K.R.UDAYABHANU,
JUDGE**

csl